

106TH CONGRESS  
1ST SESSION

# S. 401

To provide for business development and trade promotion for Native Americans, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 1999

Mr. CAMPBELL (for himself and Mr. INOUE) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for business development and trade promotion  
for Native Americans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Busi-  
5 ness Development, Trade Promotion, and Tourism Act of  
6 1999”.

7 **SEC. 2. FINDINGS; PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

9 (1) clause 3 of section 8 of article I of the  
10 United States Constitution recognizes the special re-

1 relationship between the United States and Indian  
2 tribes;

3 (2) beginning in 1970, with the inauguration by  
4 the Nixon Administration, of the Indian self-deter-  
5 mination era of the Federal Government, each Presi-  
6 dent has confirmed the special government-to-gov-  
7 ernment relationship between Indian tribes and the  
8 United States;

9 (3) in 1994, President Clinton issued an Execu-  
10 tive memorandum to the heads of departments and  
11 agencies that obligated all Federal departments and  
12 agencies, particularly those that have an impact on  
13 economic development, to evaluate the potential im-  
14 pacts of their actions on Indian tribes;

15 (4) consistent with the principles of inherent  
16 tribal sovereignty and the special relationship be-  
17 tween Indian tribes and the United States, Indian  
18 tribes retain the right to enter into contracts and  
19 agreements to trade freely, and seek enforcement of  
20 treaty and trade rights;

21 (5) Congress has carried out the responsibility  
22 of the United States for the protection and preserva-  
23 tion of Indian tribes and the resources of Indian  
24 tribes through the endorsement of treaties, and the

1 enactment of other laws, including laws that provide  
2 for the exercise of administrative authorities;

3 (6) the United States has an obligation to  
4 guard and preserve the sovereignty of Indian tribes  
5 in order to foster strong tribal governments, Indian  
6 self-determination, and economic self-sufficiency  
7 among Indian tribes;

8 (7) the capacity of Indian tribes to build strong  
9 tribal governments and vigorous economies is hin-  
10 dered by the inability of Indian tribes to engage  
11 communities that surround Indian lands and outside  
12 investors in economic activities on Indian lands;

13 (8) despite the availability of abundant natural  
14 resources on Indian lands and a rich cultural legacy  
15 that accords great value to self-determination, self-  
16 reliance, and independence, American Indians and  
17 Alaska Natives suffer higher rates of unemployment,  
18 poverty, poor health, substandard housing, and asso-  
19 ciated social ills than those of any other group in the  
20 United States;

21 (9) the United States has an obligation to as-  
22 sist Indian tribes with the creation of appropriate  
23 economic and political conditions with respect to In-  
24 dian lands to—

1           (A) encourage investment from outside  
 2           sources that do not originate with the tribes;  
 3           and

4           (B) facilitate economic ventures with out-  
 5           side entities that are not tribal entities;

6           (10) the economic success and material well-  
 7           being of American Indian and Alaska Native com-  
 8           munities depends on the combined efforts of the  
 9           Federal Government, tribal governments, the private  
 10          sector, and individuals;

11          (11) the lack of employment and entrepreneur-  
 12          ial opportunities in the communities referred to in  
 13          paragraph (8) has resulted in a multigenerational  
 14          dependence on Federal assistance that is—

15               (A) insufficient to address the magnitude  
 16               of needs; and

17               (B) unreliable in availability; and

18          (12) the twin goals of economic self-sufficiency  
 19          and political self-determination for American Indians  
 20          and Alaska Natives can best be served by making  
 21          available to address the challenges faced by those  
 22          groups—

23               (A) the resources of the private market;

24               (B) adequate capital; and

25               (C) technical expertise.

1 (b) PURPOSES.—The purposes of this Act are as fol-  
2 lows:

3 (1) To revitalize economically and physically  
4 distressed Indian reservation economies by—

5 (A) encouraging the formation of new busi-  
6 nesses by eligible entities, the expansion of ex-  
7 isting businesses; and

8 (B) facilitating the movement of goods to  
9 and from Indian reservations and the provision  
10 of services by Indians.

11 (2) To promote private investment in the econo-  
12 mies of Indian tribes and to encourage the sustain-  
13 able development of resources of Indian tribes and  
14 tribal- and Indian-owned businesses.

15 (3) To promote the long-range sustained growth  
16 of the economies of Indian tribes.

17 (4) To raise incomes of Indians in order to re-  
18 duce poverty levels and provide the means for  
19 achieving a higher standard of living on Indian res-  
20 ervations.

21 (5) To encourage intertribal, regional, and  
22 international trade and business development in  
23 order to assist in increasing productivity and the  
24 standard of living of members of Indian tribes and

1 improving the economic self-sufficiency of the gov-  
2 erning bodies of Indian tribes.

3 (6) To promote economic self-sufficiency and  
4 political self-determination for Indian tribes and  
5 members of Indian tribes.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) BOARD.—The term “Board” has the mean-  
9 ing given that term in the first section of the Act  
10 entitled “To provide for the establishment, oper-  
11 ation, and maintenance of foreign-trade zones in  
12 ports of entry in the United States, to expedite and  
13 encourage foreign commerce, and for other pur-  
14 poses”, approved June 18, 1934 (19 U.S.C. 81a).

15 (2) DIRECTOR.—The term “Director” means  
16 Director of Native American Business Development  
17 appointed under section 4(a).

18 (3) ELIGIBLE ENTITY.—The term “eligible en-  
19 tity” means an Indian tribe, tribal organization, In-  
20 dian arts and crafts organization, tribal enterprise,  
21 tribal marketing cooperative, or Indian-owned busi-  
22 ness.

23 (4) FEDERAL AGENCY.—The term “Federal  
24 agency” means an agency, as that term is defined  
25 in section 551(1) of title 5, United States Code.

1           (5) FOUNDATION.—The term “Foundation”  
2 means the Rural Development Foundation.

3           (6) INDIAN.—The term “Indian” has the mean-  
4 ing given that term in section 4(d) of the Indian  
5 Self-Determination and Education Assistance Act  
6 (25 U.S.C. 450b(d)).

7           (7) INDIAN ARTS AND CRAFTS ORGANIZA-  
8 TION.—The term “Indian arts and crafts organiza-  
9 tion” has the meaning given that term under section  
10 2 of the Act of August 27, 1935 (49 Stat. 891,  
11 chapter 748; 25 U.S.C. 305a).

12           (8) INDIAN GOODS AND SERVICES.—The term  
13 “Indian goods and services” means—

14           (A) Indian goods, within the meaning of  
15 section 2 of the Act of August 27, 1935 (com-  
16 monly known as the “Indian Arts and Crafts  
17 Act”) (49 Stat. 891, chapter 748; 25 U.S.C.  
18 305a);

19           (B) goods produced or originating within  
20 an eligible entity; and

21           (C) services provided by eligible entities.

22           (9) INDIAN LANDS.—The term “Indian lands”  
23 has the meaning given that term in section 4(4) of  
24 the Indian Gaming Regulatory Act (25 U.S.C.  
25 2703(4)).

1           (10) INDIAN-OWNED BUSINESS.—The term “In-  
2       dian-owned business” means an entity organized for  
3       the conduct of trade or commerce with respect to  
4       which at least 50 percent of the property interests  
5       of the entity are owned by Indians or Indian tribes  
6       (or a combination thereof).

7           (11) INDIAN TRIBE.—The term “Indian tribe”  
8       has the meaning given that term in section 4(e) of  
9       the Indian Self-Determination and Education Assist-  
10      ance Act (25 U.S.C. 450b(e)).

11          (12) OFFICE.—The term “Office” means the  
12      Office of Native American Business Development es-  
13      tablished under section 4(a).

14          (13) SECRETARY.—The term “Secretary”  
15      means the Secretary of Commerce.

16          (14) TRIBAL ENTERPRISE.—The term “tribal  
17      enterprise” means a commercial activity or business  
18      managed or controlled by an Indian tribe.

19          (15) TRIBAL MARKETING COOPERATIVE.—The  
20      term “tribal marketing cooperative” shall have the  
21      meaning given that term by the Secretary, in con-  
22      sultation with the Secretary of the Interior.

23          (16) TRIBAL ORGANIZATION.—The term “tribal  
24      organization” has the meaning given that term in



1 section 4(l) of the Indian Self-Determination and  
2 Education Assistance Act (25 U.S.C. 450b(l)).

3 **SEC. 4. OFFICE OF NATIVE AMERICAN BUSINESS DEVELOP-**  
4 **MENT.**

5 (a) IN GENERAL.—

6 (1) ESTABLISHMENT.—There is established  
7 within the Department of Commerce an office  
8 known as the Office of Native American Business  
9 Development.

10 (2) DIRECTOR.—The Office shall be headed by  
11 a Director, appointed by the Secretary, whose title  
12 shall be the Director of Native American Business  
13 Development. The Director shall be compensated at  
14 a rate not to exceed level V of the Executive Sched-  
15 ule under section 5316 of title 5, United States  
16 Code.

17 (b) DUTIES OF THE SECRETARY.—

18 (1) IN GENERAL.—The Secretary, acting  
19 through the Director, shall ensure the coordination  
20 of Federal programs that provide assistance, includ-  
21 ing financial and technical assistance, to eligible en-  
22 tities for increased business, the expansion of trade  
23 by eligible entities, and economic development on In-  
24 dian lands.

1           (2) ACTIVITIES.—In carrying out the duties de-  
2       scribed in paragraph (1), the Secretary, acting  
3       through the Director, shall ensure the coordination  
4       of, or, as appropriate, carry out—

5           (A) Federal programs designed to provide  
6       legal, accounting, or financial assistance to eli-  
7       gible entities;

8           (B) market surveys;

9           (C) the development of promotional mate-  
10      rials;

11          (D) the financing of business development  
12      seminars;

13          (E) the facilitation of marketing;

14          (F) the participation of appropriate Fed-  
15      eral agencies or eligible entities in trade fairs;

16          (G) any activity that is not described in  
17      subparagraphs (A) through (F) that is related  
18      to the development of appropriate markets; and

19          (H) any other activity that the Secretary,  
20      in consultation with the Director, determines to  
21      be appropriate to carry out this section.

22       (3) ASSISTANCE.—In conjunction with the ac-  
23      tivities described in paragraph (2), the Secretary,  
24      acting through the Director, shall provide—

1 (A) financial assistance, technical assist-  
2 ance, and administrative services to eligible en-  
3 tities to assist those entities with—

4 (i) identifying and taking advantage  
5 of business development opportunities; and

6 (ii) compliance with appropriate laws  
7 and regulatory practices; and

8 (B) such other assistance as the Secretary,  
9 in consultation with the Director, determines to  
10 be necessary for the development of business  
11 opportunities for eligible entities to enhance the  
12 economies of Indian tribes.

13 (4) PRIORITIES.—In carrying out the duties  
14 and activities described in paragraphs (2) and (3),  
15 the Secretary, acting through the Director, shall give  
16 priority to activities that—

17 (A) provide the greatest degree of eco-  
18 nomic benefits to Indians; and

19 (B) foster long-term stable economies of  
20 Indian tribes.

21 (5) PROHIBITION.—The Secretary may not pro-  
22 vide under this section assistance for any activity re-  
23 lated to the operation of a gaming activity on Indian  
24 lands pursuant to the Indian Gaming Regulatory  
25 Act (25 U.S.C. 2710 et seq.).

1 **SEC. 5. NATIVE AMERICAN TRADE AND EXPORT PRO-**  
2 **MOTION.**

3 (a) IN GENERAL.—The Secretary, acting through the  
4 Director, shall carry out a Native American export and  
5 trade promotion program (referred to in this section as  
6 the “program”).

7 (b) COORDINATION OF FEDERAL PROGRAMS AND  
8 SERVICES.—In carrying out the program, the Secretary,  
9 acting through the Director, and in cooperation with the  
10 heads of appropriate Federal agencies, shall ensure the co-  
11 ordination of Federal programs and services designed to—

12 (1) develop the economies of Indian tribes; and

13 (2) stimulate the demand for Indian goods and  
14 services that are available to eligible entities.

15 (c) ACTIVITIES.—In carrying out the duties described  
16 in subsection (b), the Secretary, acting through the Direc-  
17 tor, shall ensure the coordination of, or, as appropriate,  
18 carry out—

19 (1) Federal programs designed to provide tech-  
20 nical or financial assistance to eligible entities;

21 (2) the development of promotional materials;

22 (3) the financing of appropriate trade missions;

23 (4) the marketing of Indian goods and services;

24 (5) the participation of appropriate Federal  
25 agencies or eligible entities in international trade  
26 fairs; and

1           (6) any other activity related to the develop-  
2           ment of markets for Indian goods and services.

3           (d) TECHNICAL ASSISTANCE.—In conjunction with  
4           the activities described in subsection (c), the Secretary,  
5           acting through the Director, shall provide technical assist-  
6           ance and administrative services to eligible entities to as-  
7           sist those entities with—

8           (1) the identification of appropriate markets for  
9           Indian goods and services;

10          (2) entering the markets referred to in para-  
11          graph (1);

12          (3) compliance with foreign or domestic laws  
13          and practices with respect to financial institutions  
14          with respect to the export and import of Indian  
15          goods and services; and

16          (4) entering into financial arrangements to pro-  
17          vide for the export and import of Indian goods and  
18          services.

19          (e) PRIORITIES.—In carrying out the duties and ac-  
20          tivities described in subsections (b) and (c), the Secretary,  
21          acting through the Director, shall give priority to activities  
22          that—

23          (1) provide the greatest degree of economic ben-  
24          efits to Indians; and

1           (2) foster long-term stable international mar-  
2       kets for Indian goods and services.

3 **SEC. 6. INTERTRIBAL TOURISM DEMONSTRATION**  
4 **PROJECTS.**

5       (a) IN GENERAL.—

6           (1) DEMONSTRATION PROJECTS.—The Sec-  
7       retary, acting through the Director, shall conduct a  
8       Native American tourism program to facilitate the  
9       development and conduct of tourism demonstration  
10      projects by Indian tribes, on a tribal, intertribal, or  
11      regional basis.

12       (2) PROJECTS.—

13           (A) IN GENERAL.—Under the program es-  
14      tablished under this section, in order to assist  
15      in the development and promotion of tourism  
16      on and in the vicinity of Indian lands, the Sec-  
17      retary, acting through the Director, shall, in co-  
18      ordination with the Foundation, assist eligible  
19      entities in the planning, development, and im-  
20      plementation of tourism development dem-  
21      onstration projects that meet the criteria de-  
22      scribed in subparagraph (B).

23           (B) PROJECTS DESCRIBED.—In selecting  
24      tourism development demonstration projects  
25      under this section, the Secretary, acting

1 through the Director, shall select projects that  
2 have the potential to increase travel and tour-  
3 ism revenues by attracting visitors to Indian  
4 lands and in the vicinity of Indian lands, in-  
5 cluding projects that provide for—

6 (i) the development and distribution  
7 of educational and promotional materials  
8 pertaining to attractions located on and  
9 near Indian lands;

10 (ii) the development of educational re-  
11 sources to assist in private and public tour-  
12 ism development on and in the vicinity of  
13 Indian lands; and

14 (iii) the coordination of tourism-relat-  
15 ed joint ventures and cooperative efforts  
16 between eligible entities and appropriate  
17 State and local governments that have ju-  
18 risdiction over areas in the vicinity of In-  
19 dian lands.

20 (3) GRANTS.—To carry out the program under  
21 this section, the Secretary, acting through the Direc-  
22 tor, may award grants or enter into other appro-  
23 priate arrangements with Indian tribes, tribal orga-  
24 nizations, intertribal consortia, or other tribal enti-

1       ties that the Secretary, in consultation with the Di-  
2       rector, determines to be appropriate.

3           (4) LOCATIONS.—In providing for tourism de-  
4       velopment demonstration projects under the pro-  
5       gram under this section, the Secretary, acting  
6       through the Director, shall provide for a demonstra-  
7       tion project to be conducted—

8           (A) for Indians of the Four Corners area  
9       located in the area adjacent to the border be-  
10      tween Arizona, Utah, Colorado, and New Mex-  
11      ico;

12          (B) for Indians of the northwestern area  
13      that is commonly known as the Great North-  
14      west (as determined by the Secretary);

15          (C) for the Oklahoma Indians in Okla-  
16      homa; and

17          (D) for the Indians of the Great Plains  
18      area (as determined by the Secretary).

19      (b) STUDIES.—The Secretary, acting through the Di-  
20      rector, shall provide financial assistance, technical assist-  
21      ance, and administrative services to participants that the  
22      Secretary, acting through the Director, selects to carry out  
23      a tourism development project under this section, with  
24      respect to—



1           (1) feasibility studies conducted as part of that  
2       project;

3           (2) market analyses;

4           (3) participation in tourism and trade missions;  
5       and

6           (4) any other activity that the Secretary, in  
7       consultation with the Director, determines to be ap-  
8       propriate to carry out this section.

9       (c) **INFRASTRUCTURE DEVELOPMENT.**—The dem-  
10   onstration projects conducted under this section shall in-  
11   clude provisions to facilitate the development and financ-  
12   ing of infrastructure, including the development of Indian  
13   reservation roads in a manner consistent with title 23,  
14   United States Code.

15   **SEC. 7. REPORT TO CONGRESS.**

16       (a) **IN GENERAL.**—Not later than 1 year after the  
17   date of enactment of this Act, and annually thereafter,  
18   the Secretary, in consultation with the Director, shall pre-  
19   pare and submit to the Committee on Indian Affairs of  
20   the Senate and the Committee on Resources of the House  
21   of Representatives a report on the operation of the Office.

22       (b) **CONTENTS OF REPORT.**—Each report prepared  
23   under subsection (a) shall include—

24           (1) for the period covered by the report, a sum-  
25       mary of the activities conducted by the Secretary,

1 acting through the Director, in carrying out sections  
 2 4 through 6; and

3 (2) any recommendations for legislation that  
 4 the Secretary, in consultation with the Director, de-  
 5 termines to be necessary to carry out sections 4  
 6 through 6.

7 **SEC. 8. FOREIGN-TRADE ZONE PREFERENCES.**

8 (a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-  
 9 TRADE ZONES IN INDIAN ENTERPRISE ZONES.—In proc-  
 10 essing applications for the establishment of foreign-trade  
 11 zones pursuant to the Act entitled “To provide for the es-  
 12 tablishment, operation, and maintenance of foreign-trade  
 13 zones in ports of entry of the United States, to expedite  
 14 and encourage foreign commerce, and for other purposes”,  
 15 approved June 18, 1934 (19 U.S.C. 81a et seq.), the  
 16 Board shall consider, on a priority basis, and expedite, to  
 17 the maximum extent practicable, the processing of any ap-  
 18 plication involving the establishment of a foreign-trade  
 19 zone on Indian lands, including any Indian lands des-  
 20 ignated as an empowerment zone or enterprise community  
 21 pursuant to section 1391 of the Internal Revenue Code  
 22 of 1986.

23 (b) APPLICATION PROCEDURE.—In processing appli-  
 24 cations for the establishment of ports of entry pursuant  
 25 to the Act entitled “An Act making appropriations for

1 sundry civil expenses of the Government for the fiscal year  
2 ending June thirtieth, nineteen hundred and fifteen, and  
3 for other purposes”, approved August 1, 1914 (19 U.S.C.  
4 2), the Secretary of the Treasury shall, with respect to  
5 any application involving the establishment of a port of  
6 entry that is necessary to permit the establishment of a  
7 foreign-trade zone on Indian lands—

8 (1) consider on a priority basis; and

9 (2) expedite, to the maximum extent prac-  
10 ticable, the processing of that application.

11 (c) APPLICATION EVALUATION.—In evaluating appli-  
12 cations for the establishment of foreign-trade zones and  
13 ports of entry in connection with Indian lands, to the max-  
14 imum extent practicable and consistent with applicable  
15 law, the Board and Secretary of the Treasury shall ap-  
16 prove the applications.

○